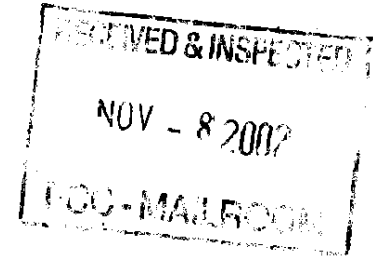


Before the
Federal Communications Commission
Washington, DC 20554



In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Talmud Torah of Lakewood)	File No. SLD-225196
Lakewood, New Jersey)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45✓
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: November 6, 2002

Released: November 7, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Talmud Torah of Lakewood (Talmud Torah), Lakewood, New Jersey. Talmud Torah seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Talmud Torah's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we reverse SLD and remand Talmud Torah's appeal to SLD for further consideration on the merits.

2. SLD issued a Funding Commitment Decision Letter on January 25, 2002, granting Talmud Torah's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD granted Talmud Torah's request for discounts for telecommunications services, Funding Request Number (FRN) 526522, but awarded less than the amount requested.⁴ On March 22, 2002, Talmud Torah filed an appeal of SLD's decision.⁵

¹ Letter from Rabbi Horowitz, Talmud Torah of Lakewood, to Federal Communications Commission, filed April 16, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rabbi Horowitz, Talmud Torah of Lakewood, dated January 25, 2002 (Funding Commitment Decision Letter).

⁴ *Id.*

⁵ Letter from Br. Bob Smith, Talmud Torah Catholic School, to Schools and Libraries Division, Universal Service Administrative Company, filed March 5, 2002 (Appeal to SLD).

In the Appeal to SLD, Talmud Torah cited FRN 526522 but identified the Application Number as Application Number 222165.⁶ Because the Funding Commitment Decision Letter for Application No. 222165 was issued on November 16, 2001, SLD issued an Administrator's Decision on Appeal indicating that Talmud Torah's appeal was received more than 60 days after the Funding Commitment Decision Letter was issued and was therefore untimely.⁷ Talmud Torah subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued by SLD on or after August 13, 2001 under section 54.720 of the Commission's rules, any such appeal must be filed with the Commission or the Administrator within 60 days of the issuance of the decision that the party seeks to have reviewed.* Documents are considered to be filed only upon receipt?

4. Based on the record, we find that Talmud Torah timely filed the Appeal to SLD. The record demonstrates that Talmud Torah was appealing the Funding Commitment Decision Letter issued on Application Number 225196 rather than Application Number 222165, which it erroneously referenced in its Appeal to SLD.¹⁰ We note that the Funding Commitment Decision Letter for Application Number 225196 was attached to the Appeal to SLD, and that this Funding Commitment Decision Letter contains the FRN on appeal, FRN 526522.¹¹ It is therefore clear on the record that this was the decision being challenged.

5. The Funding Commitment Decision Letter was not issued until January 25, 2002.¹² Thus, the Appeal to SLD, filed on March 22, 2002, was filed within 60 days of the decision, and is timely under the Commission's rules.¹³ As a result, we reverse the dismissal for untimeliness, and remand to SLD for consideration Talmud Torah's appeal on the merits.

⁶ *Id.*

⁷ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Rabbi Horowitz, Talmud Torah of Lakewood, dated March 29, 2002 (Administrator's Decision on Appeal).

⁸ 47 C.F.R. § 54.720(b). *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. December 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. December 28, 2001 and January 4, 2002); SLD website, What's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>>.

⁹ 47 C.F.R. § 1.7.

¹⁰ *See* Appeal to SLD

¹¹ *Id.*; Funding Commitment Decision Letter at 6.

¹² Funding Commitment Decision Letter.

¹³ Appeal to SLD.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Talmud Torah of Lakewood, Lakewood, **New Jersey**, on April 23, 2002, IS GRANTED, and the Appeal to SLD is REMANDED for further consideration on the merits.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau